## REMARKS/ARGUMENTS

This amendment is being filed in response to the Office Action having a mailing date of September 7, 2005. Claims 135, 143, 147-148, and 155-156 are amended as shown. New claims 157-166 are added. No new matter has been added. Claims 1-134 were previously canceled. With this amendment, claims 135-166 are pending in the application.

### I. Telephone Interview of December 21, 2005

A telephone interview was held with the Examiner on December 21, 2005 to discuss the applicant's claims and the cited references. The Examiner mailed an Interview Summary (form PTOL-413) on December 27, 2005, which provided the Examiner's comments regarding the interview and which further indicated that the applicant needs to provide a Substance of the Interview along with the reply to the present Office Action. The applicant thanks the Examiner for taking the time from her busy schedule to speak with the applicant's attorney and for providing suggestions as to how to amend the claims to distinguish over the cited references. The applicant's Substance of the Interview is as follows:

The telephonic interview was scheduled and held on December 21, 2005 with one of the applicant's attorneys, Dennis M. de Guzman (Reg. No. 41,702), rather that with Frank Abramonte as indicated in the Examiner's form PTOL-413.

In the telephone interview, Mr. de Guzman described the applicant's embodiments and the differences between the applicant's embodiments and the cited references with the Examiner. For example, Mr. de Guzman described the manner in which one example embodiment provides a first type of user action in the form of "clicking" on a button adjacent to a commercial icon to select that commercial icon for inclusion in a lottery combination, and a second type of user action in the form of "clicking" on a displayed commercial icon itself to present an advertisement of a commercial entity associated with the clicked commercial icon. Mr. de Guzman explained that none of the references disclosed, taught, or suggested this and other features of the applicant's embodiments.

In response to Mr. de Guzman's comments, the Examiner suggested including language in the claims the specifically detail these "clicking" operations of the first and second types of user actions. Furthermore, the Examiner suggested amendment of the claims to more

specifically recite what is involved in the claimed methods, such as for example, a method "for playing a lottery" or something to that effect. Additionally, the Examiner suggested amending the claims to more specifically recite details of the winning combination.

The various claims are amended herein as shown to reflect at least some of the amendments discussed with the Examiner. New claims are also added to recite other features discussed with the Examiner and/or other features supported by the applicant's disclosure. The remarks that follow repeat (for the sake of completeness) at least some of the issues discussed with the Examiner during the telephonic interview, and/or provide additional explanation of these and other differences between the features of the present applicant's embodiments and the cited references.

II. Discussion of the Applicant's Embodiments in View of the Cited References

In the Office Action, the Examiner rejected claims 135-156 under 35 U.S.C. § 103(a) as being unpatentable over Miller (U.S. Patent Publication No. 2002/0002489) in view of Leason (U.S. Patent No. 6,251,017), and Salmimaa (U.S. Patent No. 6,668,177). For the reasons set forth below, the applicant respectfully disagree with these rejections, and request that the pending claims be allowed.

A disclosed embodiment will now be discussed in comparison to the applied references. Of course, the discussion of the disclosed embodiment, and the discussion of the differences between the disclosed embodiment and subject matter described in the applied references, do not define the scope or interpretation of any of the claims. Instead, such discussed differences are intended to merely help the Examiner appreciate important claim distinctions discussed thereafter.

As described throughout the present applicant's specification and explained in the applicant's prior responses to Office Actions, one embodiment provides a method for playing a lottery game on a computerized graphical user interface (GUI) 240. For example, the GUI 240 may be present on a display screen of a cellular telephone, desktop computer terminal, portable wireless device, or other electronic device.

A plurality of commercial icons 264 are presented on the GUI 240. The plurality of commercial icons 240 are associated with a respective plurality of commercial entities. For example, each commercial icon 240 can comprise a trademark of a particular commercial entity that distinguishes the products (*e.g.*, goods and/or services) of that particular commercial entity from other commercial entities. For example, the commercial icons 240 can include a McDonald's® trademark, a FedEx® trademark, a Chrysler® trademark, and so forth. *See, e.g.*, Figure 2A and the accompanying description in the present application.

Via the user interface 240, a user can select at least one of the displayed commercial icons 240 for inclusion into a lottery bet slip 250. This selection for inclusion into the lottery bet slip 250 can be performed by the user in one example embodiment by clicking on a selection button 266 above or otherwise adjacent to each respective commercial icon 240. When the user clicks on a particular selection button 266, the corresponding commercial icon 240 is populated into one of the panels 252-262 of the lottery bet slip 250.

A determination is made whether the combination of commercial icons 240 that are populated in the lottery bet slip 250 matches a winning combination of commercial icons. If there is a match, then an award can be provided to the user.

If the user, for example in one embodiment, clicks on one of the commercial icons 240 itself (rather than clicking on the selection button 266), then an advertisement or other content related to the associated commercial entity can be presented to the user. For instance, if the user clicks on the FedEx® commercial icon, then the user's browser may be redirected to (and/or a new browser may be instantiated) the FedEx® website. The user may click on a commercial icon 240 before that has not yet been placed in the lottery bet slip 250 and/or the user may click on one of the commercial icons 240 that has already been placed in the lottery bet slip 250, in order to view an associated advertisement or other related content.

None of the cited references disclose, teach, or suggest these and other features of the present applicant's embodiments. For example, Miller is generally directed to an Internet-based promotional business model that utilizes incentives to induce individuals to answer questions relating to a selected topic. Miller, page 1, ¶ 0001. One such incentive is an entertainment environment provided to a user by means of a lotto or other game. Miller, page 2, ¶ 0013. As recognized by the Examiner on pages 2-3 of the present Office Action, Miller does

not disclose providing commercial icons for selection and associating the commercial icons with at least two different commercial entities. That is, for example, Miller does not disclose, teach, or suggest selecting or otherwise identifying commercial icons via a GUI for inclusion in a combination to be used for playing a lottery game.

To supply the missing teachings of Miller, the Examiner has cited col. 9, lines 26-32 of Leason as disclosing commercial icons for the user to select. The applicant respectfully disagrees with this interpretation of Leason for at least the following reasons.

First, Leason does not disclose, teach, or suggest selection of the icons via a computerized GUI for inclusion in a user selected combination. The "game cards" of Leason are distributed to players/users from a store, for example. The game cards are physical pre-printed gamecards, rather than game cards provided through a graphical user interface. *See, e.g.*, column 4, lines 13-14 and 44 of Leason. The game cards of Leason provide conventional "scratch-off" concealment of images, such that the user needs to scratch of the concealment material in order to view the image underneath. *See, e.g.*, column 4, lines 52-57 of Leason. Thus, Leason provides a game card that requires manual operation (*e.g.*, scratching off) without the benefit of a GUI for operation by the user, and further does not even provide the user with a way to even select any of the images--the images are already pre-selected on the game card when the game card was printed, and the user needs to merely scratch off the concealment material in order to determine whether he/she has won an award.

Second, Leason pertains to a reward validation technique, which allows a user to redeem/obtain a reward for a lottery game online or in person. Thus, the lotto game of Leason has already been played through conventional means (*e.g.*, by scratching off the game card) by the time the user needs to validate/redeem the award. To redeem the award, the user click-selects on icons 802 on a redemption form 800 to recreate the pattern printed on his or her game card 700. *See, e.g.*, column 9, lines 26-28 and Figure 8 of Leason. Accordingly, it is clear that Leason does not provide for user selection of commercial icons for inclusion in a combination of commercial icons to be used for playing a lottery game, or for that matter a computerized method for playing a lottery. The lotttery game of Leason has already been played by manually scratching off the game card--the icon selection described by Leason pertains to the redemption

process (*i.e.*, filling out the redemption form 800) after the user has completed playing the lottery game, and the icon selection is not being used to populate a lottery bet slip.

Third, Leason does not disclose, teach, or suggest that his icons are commercial icons associated with at least two different commercial entities. Instead, the icons in Leason merely identify products provided by a single retail store. In fact, a benefit of Leason is that "players interact with the products of the game sponsor and so the products are brought to the customers' respective minds outside of the store or conventional advertising environment." *See, e.g.*, column 9, lines 37-41 of Leason.

Moreover, the icons of Leason (in Figure 8, for instance) show generic products, such as coffee, pizza, salad, and so forth. It is impossible to identify from these images/icons alone which commercial entity, if any, is associated with the displayed products. Indeed, the Examiner appears to have admitted on page 2 of the present Office Action that Leason does not disclose association of the icons with different commercial entities, and therefore has cited Salmimaa as disclosing association of commercial icons to different commercial entities.

The applicant respectfully disagree with the Examiner's use of Salmimaa to cure the deficiencies of Leason and/or Miller. Salmimaa does not pertain to playing a lottery game on a computerized GUI. Instead, Salmimaa pertains to displaying a plurality of icons on a display of a mobile terminal in a manner that is tailored to a particular user's needs. For example, the displayed icons are chosen such that their context match a time of day, geographic area, or user profile characteristics. *See, e.g.*, column 2, lines 21 of Salmimaa. There is no mention whatsoever in Salmimaa that the user can select particular icons for inclusion in a combination for playing a lottery game, and a winning combination comprised of commercial icons associated with commercial entities, and other features of the applicant's embodiments.

## III. Discussion of the Claims

Independent claim 135 has been amended to recite, *inter alia*, "receiving a number of indications of a first type of action by the user via the graphical user interface, the received indications of the first type of action by the user identifying respective ones of the commercial icons for inclusion in a user selected combination of commercial icons to be used for playing the lottery game." Other amendments are made to claim 135 to emphasize playing the

lottery game, commercial icons associated with respective commercial entities, and the graphical user interface.

As explained above and recognized by the Examiner, Miller does not disclose, teach, or suggest the recited commercial icons, whether singly or in combination with the other features recited in claim 135. Thus, claim 135 is allowable over Miller.

Also as explained above, Leason does not provide a graphical user interface for user selection of commercial icons to be used for playing the lottery game. The user in Leason cannot select commercial icons that will be used in playing the lottery game--the images of Leason are already preselected on the pre-printed game card (*i.e.*, the user has no choice of which images are physically printed on the game card) and the images are merely uncovered (scratched off) by the user when playing the game. Moreover, the game in Leason is already played/finished by the time the redemption process is performed, when the user seeks to obtain an award by selecting icons on a redemption form that replicate the scratched-off icons on the game card.

Furthermore, the winning combination of Leason does not comprise a winning combination of commercial icons associated with respective commercial entities, as newly recited in claim 135. As explained above, the winning combination of Leason (as well as his other images) are images of generic products. Accordingly, claim 135 is allowable over Leason.

Salmimaa does not disclose, teach, or suggest a graphical user interface for user selection of commercial icons to be used for playing the lottery game and/or other features recited in claim 135. Instead, Salmimaa merely provides icons that matches user profile information, time of day, geographic location, etc. Accordingly, claim 135 is allowable over Salmimaa, whether singly or in combination with the other cited references.

Independent claim 147 is amended to include specific language pertaining to the lottery game, graphical user interface, indications to identify commercial icons to be used for playing the lottery game, and at least one winning combination of commercial icons associated with the respective commercial entities. Since these features are not disclosed, taught, or suggested by any of the cited references, whether singly or in combination, claim 147 is allowable over the cited references.

Independent claim 155 is amended to include specific language pertaining to the lottery game, graphical user interface, presenting commercial icons via the graphical user interface, user defined combination of commercial icons to be used for playing the lottery game, and at least one winning combination of commercial icons associated with the respective commercial entities. Since these features are not disclosed, taught, or suggested by any of the cited references, whether singly or in combination, claim 155 is allowable over the cited references.

Dependent claim 143 is amended to correct a typographical error. Dependent claim 148 is amended to update antecedent basis and to further recite the graphical user interface is on a cellular telephone. Dependent claim 156 is amended to make its recitations consistent with those of its base claim 155.

The various new dependent claims 157-166 recite subject matter that is distinctive over the cited references, whether singly or in combination. For example, new dependent claim 157 recites that "the user selected combination of commercial icons to be used for playing the lottery game include trademarks associated with the respective commercial entities that distinguish products of the commercial entities from one another." Miller, for example, does not provide the claimed commercial icons and trademarks. Salmimaa does not provided the claimed commercial icons for playing the lottery game. The images in the game card and/or redemption card of Leason are not trademarks that distinguish the products of one commercial entity from another. Rather, the images of Leason are generic images of products (such as pizza, salad, burgers, etc.), and it is impossible to determine or otherwise distinguish any particular commercial entity from another commercial entity by looking at the images. Accordingly, claim 157 is allowable over the cited references.

As another example, new dependent claim 158 is directed to an embodiment wherein the first type of user action comprises a user's click on a button of the graphical user interface that is adjacent to the respective presented commercial icon, and wherein the second type of user action comprise user's click on the respective commercial icon. Since these features are not disclosed, taught, or suggested by any of the cited references, claim 158 is allowable.

As another example, new dependent claim 159 clarifies that the winning combination can include a plurality of commercial icons associated with a same commercial

entity and at least one other commercial icon associated with a different commercial entity. Thus, as an illustration, if there are a total of 6 commercial icons in the winning combination, 3 of the commercial icons can be associated with a same particular commercial entity, while each of the 3 other commercial icons can be associated with 3 different commercial entities. These recitations are distinctive over Salmimaa, for example, since Salmimaa's combination of commercial icons are each directed towards a different commercial entity. Indeed, there is no motivation or suggestion in Salmimaa to provide commercial icons of the same commercial entity, such as two McDonald's® icons, since such information would be repetitive and uses up valuable real estate on the display screen. As stated by Salmimaa, he is trying to efficiently represent a large number of icons on a small display screen that is tailored to a particular user's needs. *See, e.g.*, column 2, lines 9-13 of Salmimaa. Also as explained above, neither Miller nor Leason provide the recited commercial icons. Accordingly, claim 159 is allowable.

As yet another example, dependent claim 163 clarifies that the second type of user action can include user selection of at least one commercial icon from the winning combination, and in response to user selection, presenting an advertisement associated with the selected commercial icon from the winning combination. This feature is not found in any of the cited references. For example, the Examiner on page 5 of the Office Action has cited clicking the LEXUS banner icon of Figure 7C of Miller as disclosing a "second type of user action." However, the LEXUS banner of Miller is merely an advertisement banner, and is not part of any winning combination of commercial icons as recited in claim 163. Leason does not provide the capability to select icons from a winning combination in order to view advertisements, and Salmimaa simply does not even involve a lottery game and hence does not provide a winning combination of any sort. Accordingly, claim 163 is allowable.

## IV. Conclusion

Overall, none of the references singly or in any motivated combination disclose, teach, or suggest what is recited in the independent claims. Thus, given the above amendments and accompanying remarks, the independent claims are now in condition for allowance. The dependent claims that depend directly or indirectly on these independent claims are likewise

allowable based on at least the same reasons and based on the recitations contained in each dependent claim.

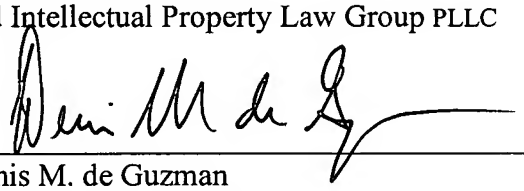
If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to the allowability of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 622-4900.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

Seed Intellectual Property Law Group PLLC



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